

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

WAYNE BURWELL,)
Plaintiff)
v.) Case No. 5:12-cv-166-cr
HARTFORD POLICE OFFICER FREDRICK)
PEYTON in his individual capacity and as an)
employee of the Town of Hartford, HARTFORD)
POLICE OFFICER SCOTT MOODY in his)
individual capacity and as an employee of the)
Town of Hartford, HARTFORD POLICE)
OFFICER KRISTINNAH ADAMS in her)
individual capacity and as an employee of the)
Town of Hartford, HARTFORD POLICE CHIEF)
GLENN CUTTING in his individual capacity,)
TOWN OF HARTFORD, FOR THE)
NEGLIGENCE OF EMILY LEINOFF; TOWN OF)
HARTFORD FOR THE NEGLIGENCE OF)
MARTHA MORSE; and TOWN OF HARTFORD,)
Defendants)

STIPULATED DISMISSAL WITH PREJUDICE

NOW COME the Parties, by and through their counsel of record, and hereby stipulate and agree as follows:

1. The Plaintiff commenced this action pursuant to 42 U.S.C. §1983 and state law against the Defendants for their actions in connection with an incident on May 29, 2010 during which Defendants Peyton, Moody, and Adams responded to a 911 call at Plaintiff's residence.

2. On April 4, 2013, the Court dismissed Plaintiff's federal equal-protection and equal-rights claims. (Doc. 27).

3. On September 15, 2014, Defendants Leinoff and Morse moved to dismiss Plaintiff's claims against them. (Docs. 81 and 85). The motion was not opposed by Plaintiff and the Court dismissed all claims against Defendants Leinoff and Morse on January 28, 2015. (Doc. 111).

4. On September 14, 2015, the Court granted summary judgment to Defendant Town of Hartford and Defendant Glenn Cutting on all of Plaintiff's claims against them. (Doc. 126).

5. On September 14, 2015, the Court granted summary judgment to Defendants Peyton, Moody and Adams on Plaintiff's false-arrest and related state-tort claims, but denied summary judgment to Defendants Peyton, Moody and Adams on Plaintiff's federal excessive-force claim and state law claims of assault, battery, and intentional infliction of emotional distress. (Doc. 126). The Court subsequently reconsidered its opinion and granted summary judgment to Defendant Moody on all claims against him. (Doc. 136).

6. Defendants Peyton and Adams appealed the Court's order denying them summary judgment to the Second Circuit Court of Appeals. (Doc. 137). Following a denial of the appeal, Defendants Peyton and Adams filed a petition for a writ of certiorari with the United States Supreme Court.

7. Defendants Peyton and Adams requested a stay of the trial on the remaining claims against them in order to pursue the petition of a writ of certiorari, which request was denied by the Court. (Docs. 146 and 147). The matter was scheduled for trial commencing October 2, 2017 and continuing until October 17, 2017. (Doc. 150).

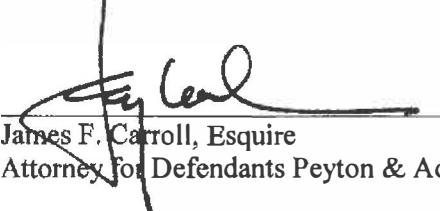
8. It is now stipulated and agreed that all claims asserted in this matter, including all claims previously dismissed and including all claims for attorneys' fees pursuant to 42 U.S.C. §1983, or otherwise, be dismissed WITH PREJUDICE and that each party bear their own costs and attorneys' fees.

WHEREFORE, the parties request that the Court dismiss this matter WITH PREJUDICE, with each party to bear their own costs and attorneys' fees.

DATED at Middlebury, Vermont this 27th day of September, 2017.

CARROLL, BOE & PELL, P.C.

BY:


James F. Carroll, Esquire
Attorney for Defendants Peyton & Adams

DATED at Burlington, Vermont this 27th day of September, 2017.

MCNEIL, LEDDY & SHEAHAN, P.C.

BY:

/s/ Nancy G. Sheahan
Nancy G. Sheahan, Esquire
Attorney for Defendants Cutting, Leinoff,
Morse and the Town of Hartford

DATED at Orford, New Hampshire this 27 day of September, 2017.

VAN DORN, CURTISS & ROUSSEAU, PLLC

BY:


Robin C. Curtiss, Esquire
Attorney for Wayne Burwell

SO ORDERED.

Date: _____

Honorable Christina Reiss